

Message Text

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ACTION COME-00

INFO OCT-01 EUR-12 ISO-00 EB-08 STR-07 AGRE-00 CIAE-00

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FM AMEMBASSY COPENHAGEN

TO SECSTATE WASHDC 6248

INFO EC COLLECTIVE

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USEEC ALSO FOR EMBASSY

EO 11652: NA

TAGS: ETRD DA

SUBJ: FLORENCE AGREEMENT: IMPLEMENTATION OF ANNEX D; EC REGULATION 1798/75

REF: (A) STATE 60577; (B) BRUSSELS A-033

SUMMARY: EMBASSY FINDINGS OF A RESTRICTIVE IMPLEMENTATION OF EC REGULATION 1798/75 CONCUR FULLY WITH THE FINDINGS OF EMBASSY BRUSSELS (REF B). THERE IS GREAT CONCERN IN DENMARK ABOUT THE STRICT IMPLEMENTATION, AND THERE HAVE BEEN SEVERAL CASES WHERE PRODUCTS WHICH PREVIOUSLY ENTERED DUTY-FREE ARE NOW ASSESSED A DUTY. INVESTIGATION ALSO SUGGESTS THAT ONLY DENMARK AND BELGIUM ARE ENFORCING REGULATION FULLY. END SUMMARY.

1. TRADE SOURCES ARE VERY CONCERNED ABOUT THE STRICT IMPLEMENTATION OF EC REGULATION 1798/75. SEVERAL CASES HAVE OCCURRED WHERE PRODUCTS WHICH PREVIOUSLY ENTERED DUTY FREE ARE NOW ASSESSED A DUTY, THUS PLACING US PRODUCTS IN A LESS COMPETITIVE POSITION. WE WERE ALSO TOLD THAT SALES CONTRACTS NOW INCLUDE A PROVISION STATING THAT AN END-USER MUST PAY CUSTOMS DUTIES IF A LIMITED OFFICIAL USE

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PRODUCT IS FOUND INELIGIBLE FOR DUTY-FREE TREATMENT. THIS IS NOT ATTRACTIVE TO END-USERS, WHO IN MOST INSTANCES ARE BOUND BY BUDGETARY LIMITATIONS. END-USERS ARE ALSO UNHAPPY WITH THE REGULATION BECAUSE IT REQUIRES THEM TO CERTIFY THAT TO THE BEST OF THEIR KNOWLEDGE NO SIMILAR INSTRUMENTS ARE PRODUCED IN THE EC AREA. THIS IMPOSES AN ADMINISTRATIVE BURDEN ON END-USERS AS THEY ARE RELUCTANT TO MAKE SUCH CERTIFICATION WITHOUT FIRST CONDUCTING

A SURVEY. FURTHERMORE, THIS CERTIFICATION DOES NOT REMOVE THE UNCERTAINTY ABOUT PAYMENT OF DUTIES. IF THE CUSTOMS AUTHORITIES SUBSEQUENTLY DISCOVER THAT SIMILAR EC INSTRUMENTS ARE PRODUCED, THE END-USER WILL BE REQUIRED TO PAY DUTIES. IN THE CASES QUOTED BELOW THERE HAVE BEEN A LAGO OF UP TO 9 MONTHS BEFORE FINAL DETERMINATION WAS MADE.

2. AN INTERESTING POINT WAS RAISED BY THE LEADING IMPORTER, WHO TOLD US THAT HIS BUSINESS CONTACT IN SWITZERLAND (A US SUBSIDIARY) CLAIMED THAT ONLY DENMARK AND BELGIUM ACTUALLY ENFORCED THE EC REGULATION. THIS POINT SEEMS TO BE CONFIRMED BY RESPONSES FROM THE OTHER EMBASSIES IN THE EC AREA.

3. THE CASES SO FAR DEVELOPED ARE AS FOLLOWS:

A. STRUER A/S, COPENHAGE, LEADING IMPORTER OF SCIENTIFIC INSTRUMENTS. THIS COMPANY EXPECTS THAT SALES OF US PRODUCTS VALUED AT AROUND \$350,000 ANNUALLY, WHICH PREVIOUSLY ENTERED DUTY FREE, WILL BE AFFECTED BY THE EC REGULATION. INDIVIDUAL CASES INVOLVED DENIAL OF DUTY-FREE STATUS ON SPECTROPHOTOMETRES AND LIQUID SCINTILLATION COUNTER. STRUER WILL APPEAL DETERMINATION ON THE LATTER PRODUCT AS THEY ARE POSITIVE THAT LIKE INSTRUMENT IS NOT PRODUCED WITHIN THE EC AREA.

B. BUCH & HOLM A/S, MEDIUM SIZE IMPORTER. THIS COMPANY WAS DENIED DUTY-FREE STATUS ON CENTRIFUGES, WHICH PREVIOUSLY ENTERED DUTY FREE. ANNUAL SALES WORTH \$150,000 WILL BE AFFECTED, AND IT IS EXPECTED THAT OTHER SCIENTIFIC INSTRUMENTS WILL EVENTUALLY ALSO LIMITED OFFICIAL USE

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BE HIT BY THE EC REGULATION.

C. HEWLETT-PACKARD A/S (US SUBSIDIARY): ANNUAL SALES WORTH \$400,000 OF GAS AND LIQUID ANALYZING EQUIPMENT WILL BE AFFECTED, AS LIKE EQUIPMENT REPORTEDLY IS PRODUCED IN ITALY (ALTHOUGH THE ITALIAN PRODUCT IS MARKETING IN ITALY ONLY). DENIAL OF DUTY-FREE STATUS NOTIFIED IN MARCH 1978 REFERS BACK TO IMPORTS IN JULY 1977. HP MAY DECIDE TO SWALLOW THESE EXTRA COSTS THEMSELVES FOR MARKETING POLICY REASONS.

D. TEKTRONIX A/S (US SUBSIDIARY). THIS COMPANY WAS DENIED DUTY-FREE STATUS ON GRAPHICAL DISPLAY SYSTEM AND PLOTTER (BTN 84.53), WHICH PREVIOUSLY ENTERED DUTY FREE. LETTER FROM DANISH CUSTOMS AUTHORITIES TO TEKTRONIX STATES THAT DENIAL WAS ON THE BASIS THAT EQUIPMENT COULD ALSO BE USED COMMERCIALY (NORMAL EQUIPMENT) AND THUS WAS NOT QUALIFIED FOR DUTY-FREE ENTRY (REF EC COMMISSION DECISION 77/506/EEC, JULY 20, 1977). COMPANY, HOWEVER, TOLD EMBASSY THAT CHARACTERISTICS OF LINEARITY AND SIZE OF TUBE WERE NOT FOUND IN EC PRODUCED PRODUCTS AND THAT THE UNIQUE QUALITY WAS OF SIGNIFICANT IMPORTANCE FOR SCIENTIFIC USE.

4. EMBASSY COMMENT: FROM THE ABOVE, EMBASSY CONCLUDES THAT THE EC COMMISSION MUST HAVE DEVELOPED SOME POSITIVE OR NEGATIVE QUALIFICATION LISTS IN RELATION TO IMPORTS FROM THIRD COUNTRIES. THERE

IS NO DOUBT THAT THE STRICT IMPLEMENTATION OF THE EC REGULATION
HAS AND WILL HAVE AN ADVERSE EFFECT ON THE SALES IN DENMARK OF US
SCIENTIFIC INSTRUMENTS AND APPARATUS. EMBASSY IS PUZZLED THAT
ONLY BELGIUM AND DENMARK SEEM TO ENFORCE THE REGULATION.
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